

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**  
**Kentucky Commission on the Deaf and Hard of Hearing**  
**(Amendment)**

**735 KAR 2:040. Interpreter protocols.**

RELATES TO: KRS 12.290, 163.510(4), 163.515(2)(c), 201 KAR 39:120

STATUTORY AUTHORITY: KRS 12.290, 163.510(4), 163.515 (2)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.290 requires each department, program cabinet, and administrative body of state government to promulgate administrative regulations to provide accessibility to all services by persons who are deaf or hard-of-hearing. KRS 163.510(4) requires the commission to oversee the provision of interpreter services to the deaf and hard of hearing. This administrative regulation establishes interpreter protocols. KRS 163.515 (2)(c) mandates that the Executive Director of the Commission on the Deaf and Hard of Hearing promote the training of interpreters for the deaf and hard of hearing. 201 KAR 39:120 outlines the Code of Ethical Conduct – Code of Professional Conduct a licensed interpreter must follow according to the Kentucky Board of Interpreters.

Section 1. (1) A staff or assigned~~[free-lance]~~ interpreter shall adhere to the Code of Professional Conduct and:

- (a) Keep assignment-related information strictly confidential;
- (b) Be impartial to a proceeding;
- (c) Recognize and work within his range of ability;
- (d) Not accept an assignment beyond his skill level;
- (e) Promptly notify Interpreter Referral Services Program staff if the communication mode of a deaf or hard of hearing person requires the additional skills of a~~[certified]~~ deaf interpreter; and
- (f) Arrive at an assignment fifteen (15) minutes before the scheduled starting time to:
  1. Arrange logistics; and
  2. Confer with the consumer and another interpreter.

(2) A KCDHH Interpreter Referral Services Program assigned interpreter shall display professional demeanor and conduct by:

(a) Wearing appropriate professional clothing, as outlined in the Code of Professional Conduct for the interpreter's national certifying organization, and~~[which include]~~

1. A skirt or dress;
2. A business suit;
3. Slacks and a jacket; or
4. Similar attire; and]

(b) Treating a deaf,~~[or]~~ hard of hearing, or~~[and]~~ hearing consumer involved in the assignment, pleasantly, fairly, and with respect.

(3) An Interpreter Referral Services Program~~[a contract and]~~ staff interpreter, or assigned interpreter, shall comply with the code of ethics per 201 KAR 39:120 and per the appropriate certifying body of the:

(a) National Association of the Deaf – Registry of Interpreters for the Deaf Code of Professional Conduct (2005);

- ~~(b)[(a)]~~ National Registry of Interpreters for the Deaf;~~[or]~~
- ~~(c)[(b)]~~ National Association of the Deaf; or
- ~~(d)~~ Board for Evaluation of Interpreters Certification Program.

(4) Assignment conflicts.

(a) If an assigned~~[contracted]~~ interpreter is unable to fill the assignment because of illness or

another unforeseen conflict, he shall contact the Interpreter Referral Services Program staff as soon as he becomes aware of the conflict.

(b) The staff of the KCDHH Interpreter Referral Services Program shall be responsible for contacting and attempting to secure a replacement interpreter for the assignment.

(5) If resources are available, the KCDHH Interpreter Referral Services Program may provide a professional development opportunity for assigned interpreters~~[contract]~~ and staff interpreters. A development opportunity may include:

- (a) A mentoring program;
- (b) Diagnostic assessment and feedback;
- (c) Support for interpreter training or testing opportunities; and
- (d) Similar programs.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference: The National Association of the Deaf – Registry of Interpreters for the Deaf Code of Professional Conduct (2005).~~[(a) National "Registry of Interpreters for the Deaf Code of Ethics", (1996), National Registry of Interpreters for the Deaf; and~~

~~(b) "National Association of the Deaf Interpreter Code of Ethics", (1997), National Association of the Deaf.]~~

(2) This material may be inspected, copied, or obtained at Kentucky Commission on the Deaf and Hard of Hearing, 632 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

VIRGINIA L. MOORE, KCDHH Executive Director

APPROVED BY AGENCY: April 11, 2018

FILED WITH LRC: April 11, 2018 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 21, 2018, at 10 a.m. EST, at the Kentucky Commission on the Deaf and Hard of Hearing office located at 632 Versailles Road, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by May 14, 2018, five work-days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2018. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Virginia L. Moore, Executive Director, email [virginia.moore@ky.gov](mailto:virginia.moore@ky.gov), 632 Versailles Road, Frankfort, Kentucky 40601, phone (502) 573-2604 v/t, fax (502) 573-3594, or VP (502) 416-0607 VP.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Virginia L. Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: 735 KAR 2:040 outlines expected protocols for staff or assigned interpreters who work for the Interpreter Referral Services Program within the Kentucky Commission on the Deaf and Hard of Hearing. The amendment clarifies these procedures.

(b) The necessity of this administrative regulation: KRS 12.290 requires each department, program cabinet, and administrative body of state government to promulgate administrative regulations to provide accessibility to all services by persons who are deaf or hard-of-hearing. KRS 163.510(4) requires the commission to oversee the provision of interpreter services to the deaf and hard of hearing. This administrative regulation establishes interpreter protocols. KRS 163.515 (2)(c) mandates that the Executive Director of the Commission on the Deaf and Hard of Hearing promote the training of interpreters for the deaf and hard of hearing. This administrative regulation allows for support of opportunities to promote the professionalism of interpreters utilized by state agencies. 201 KAR 39:120 outlines the Code of Ethical Conduct – Code of Professional Conduct a licensed interpreters must follow according to the Kentucky Board of Interpreters. This administrative regulation is necessary to implement these provisions and ensure accessible communication is provided to meet the needs of deaf and hard of hearing individuals participating in services offered by state agencies. This amendment to 735 KAR 2:040 clarifies these procedures.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by providing protocols for providing communication access to state government agencies providing services to deaf and hard of hearing individuals. The amendment outlines procedures for staff, and assigned interpreters that work for the Interpreter Referral Services Program, to follow in providing communication access.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in outlining expected protocol for staff or assigned interpreters that provide quality communication access for deaf and hard of hearing consumers utilizing state services. The amendment expands on and clarifies these protocols.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates references to the code of ethics, which governs interpreter services, and incorporates by reference the Professional Code of Conduct currently utilized by interpreters.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to incorporate the Professional Code of Conduct utilized by interpreters working with the Interpreter Referral Services Program, and brings the regulation into compliance with requirements mandated in KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment clarifies protocols and expectations for interpreters that accept assignments through the Interpreter Referral Services Program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies ethical expectations of interpreters, to guide them in providing better services to deaf and hard of hearing consumers utilizing state services..

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The 700,000 deaf and hard of hearing consumers in the Commonwealth that utilize interpreters to access state government services will be impacted by the clarification of interpreter protocols. State agencies that require interpreter services to provide access to the programs they provide will be in compliance with ADA requirements.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities identified in question (3) will not have to take any action to comply with the amendment to this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no change in the cost of services for qualified interpreters because of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities requesting interpreter services will be better able to meet ADA requirements for providing communication access by utilizing qualified interpreters. Deaf and hard of hearing consumers utilizing state government services will be guaranteed ethical treatment and quality communication access.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no change in costs after implementation of this amendment as the Interpreter Referral Services Program is funded through the agency's annual budget.

(b) On a continuing basis: There will be no change in costs ongoing after implementation of this amendment. Continued indirect costs to the program include 10% of the Executive Director's time to supervise the administration of this program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Funds will support the implementation of this amendment. The KCDHH Executive Director works with the agency's annual budget, as provided by the General Assembly, and monitored by the Commission Board per KRS 163.506, to ensure quality services are provided.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or funding is required to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied, or required, to implement this amendment as the program functions as part of the overall mission of KCDHH.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties fire departments, or school districts) will be impacted by this administrative regulation? State agencies utilizing the Interpreter Referral Services Program will benefit from the clarification of protocol made in this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. State statutory authority; KRS 12.290, 163.510(4), 163.515, 201 KAR 39:120. Federal statutory authority; 29 U.S.C. Sec 794 and 42 U.S.C. Sec 12132.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire department, or school districts) for the first full year the administrative regulation is to be in effect. There is no impact on the expenditures and revenues of state government agencies because of this amendment.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated because of this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated because of this amendment.

(c) How much will it cost to administer this program for the first year? The cost for administration of this program is included in the agency's annual general fund budget authorized by the General Assembly, and will not increase because of this amendment.

(d) How much will it cost to administer this program for subsequent years? The cost for administration of this program is included in the agency's annual general fund budget authorized by the General Assembly, and will not increase because of this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): In compliance with KRS 163.515, the Executive Director works within the agency's annual budget, as provided by the General Assembly, and monitored by the Commission Board per KRS 163.506. There is no direct impact on revenue because of this amendment.

Expenditures In compliance with KRS 163.515, the Executive Director works within the agency's annual budget, as provided by the General Assembly, and monitored by the Commission Board per KRS 163.506. There is no direct impact on revenue because of this amendment.

Other Explanation: None